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No. 91-925

IN THE

Supreme Court of the United States

OCTOBER TERM, 1991

GREATER SOUTH SUBURBAN BOARD OF REALTORS, an Illinois not-for-profit corporation, and NATIONAL ASSOCIATION OF REALTORS, an Illinois not-for-profit corporation,

Petitioners,

v.

CITY OF BLUE ISLAND, VILLAGE OF CALUMET PARK, CITY OF COUNTRY CLUB HILLS, VILLAGE OF GLENWOOD, VILLAGE OF HAZEL CREST, VILLAGE OF MATTESON, VILLAGE OF PARK FOREST, VILLAGE OF RICHTON PARK, VILLAGE OF UNIVERSITY PARK, and SOUTH SUBURBAN HOUSING CENTER, an Illinois not-for-profit corporation,

Respondents.

Petition For Writ Of Certiorari To The United States Court Of Appeals For The Seventh Circuit

BRIEF OF MUNICIPALITIES IN OPPOSITION

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QUESTIONS PRESENTED FOR REVIEW

I. Does a municipal ordinance that provides residents with the option to avoid unwanted real estate solicitations in the privacy of their own homes comport with the First Amendment and the Equal Protection Clause?

II. Does a municipality that notifies all real estate agents doing business in the community of the scope of enforcement under an unambiguous solicitation ordinance provide fair notice of prohibited conduct?

III. Does a municipal ordinance that permits the placement of real estate signage (and other signage) in residential areas, but regulates the size, number, and location of all such signage to promote community aesthetics, satisfy the First Amendment?

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STATEMENT OF THE CASE

Introduction

The Realtors hang their Petition as to the Municipalities on what they call a "single question: whether a municipality may attempt to manipulate its real estate market to preserve its character as an integrated but predominantly white community." Petition at 18.

While the "question" may be interesting, it is fanciful in this case. "Manipulation" of the real estate market is not what the challenged ordinances did or sought to do. Although the Realtors have alleged "manipulation" since the first days of the suit, two courts have unanimously concluded that they never backed it up with proof. Nor are the Municipalities, which are proud to be racially integrated, "predominantly white"; indeed, several are "predominantly black" and have been for a number of years,[1] but their commitment is no less than that of the others to the protection of residential privacy and the fostering of residential diversity.

Although the Realtors have chosen to spice their Petition with a racial attack on Municipal motives, the record is replete with evidence of the Municipalities' long and abiding commitment to fair housing for all racial groups. The Municipalities were among the earliest communities anywhere to be open to residential integration. Several

[1] According to the 1990 summary population data by race published by the U.S. Census Bureau, four of the nine Municipalities are majority-black: Country Club Hills (57%), Calumet Park (72%), Hazel Crest (51%), and University Park (79%); the remaining communities have substantial black populations: Matteson (44%), Park Forest (25%), Glenwood (25%), Richton Park (22%), and Blue Island (14%).

of the Municipalities enacted ordinances more than twenty years ago creating human relations commissions and prohibiting a variety of discriminatory housing practices, such as steering, panic peddling, and racially motivated refusals to deal. *See, e.g.*, Jt.App. 873; Tr. 120, Bean; Tr. 5481-82, Dubruiel.[2]

More recently, several Municipalities have received certification from the United States Department of Housing and Urban Development ("HUD") that their fair housing ordinances were, as enacted and administered, "substantially equivalent" to the federal Fair Housing Act. Jt.App. 682, 690, 891; 42 U.S.C. § 3610(f). During HUD's review process, the Realtors filed formal charges with HUD, mirroring the allegations of this litigation and claiming that the fair housing programs of these communities manipulated the racial composition and deterred black entry. 53 Fed. Reg. 26,318 (1988); 49 Fed. Reg. 32,049 (1984). HUD exhaustively investigated these charges, then categorically rejected them, finding that the Municipalities had administered their fair housing programs and ordinances in a manner wholly consistent with equal housing opportunity and the promotion of residential racial integration. *Id.*

The interest of real estate agents in the South Suburbs is in "making sales," not "promoting integration," as the district court concluded after weighing the evidence below.

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[2] References to "NAR.App." and "M.App." are to the Appendices filed before this Court by the Realtors and the Municipalities, respectively. Citations to the record below are designated "Jt. App." (for the Joint Appendix filed in the court of appeals) or, if applicable, the record ("R.____") or trial transcript and testifying witness ("Tr. ____").

NAR.App. 69, 713 F. Supp. at 1075. Unfortunately, they have not confined their interest merely to making sales. As the district court found, white Realtors "push listings" in white neighborhoods to white customers, while black Realtors "push listings" in black or integrated neighborhoods to their black customers—a form of racial steering that exacerbates the threat of resegregation facing the communities in which Realtors operate. NAR.App. 68-69, 713 F. Supp. at 1074-75. In the face of such deeply ingrained Realtor practices, not to mention expensive legal challenges financed by their national trade association, it is remarkable that the Municipalities have managed to maintain their commitment to residential racial diversity. They have done so unwaveringly.

In proceedings below, the Realtors straightforwardly based their Municipal racial attacks on purported violations of the Fair Housing Act, which, of course, they were obliged to prove. After they failed, and their claims were rejected and thoroughly discredited by both the district court and the court of appeals, the Realtors dropped the Fair Housing Act claims from the Petition before this Court. Thus, they now are bound by the lower courts' final rejection of their race-based claims. Yet, the Realtors want to have it both ways: to preserve the racial rhetoric without challenging the lower courts' repudiation of its basis. (They obviously have calculated that without the racial rhetoric, they are unlikely to interest this Court in taking their appeal.) Thus, the Petition retains the pervasive racial innuendo that previously propped up the rejected Fair Housing Act claims, but carefully conceals from view the categorical findings of the two lower courts that the Realtors utterly failed to put proof behind their rhetoric.

Because the Realtors have retained the rhetoric, it is instructive to review how decisively the lower courts, after reviewing the evidence, repudiated it. In the case of the solicitation ordinances, for example, the court of appeals found that "the Realtors have pointed to nothing in the record that would even remotely demonstrate that the purpose of these facially neutral limitations on solicitation was to cause blacks to suffer racial discrimination." NAR.App. 35, 935 F.2d at 887. As to the possible racial effects, the court of appeals agreed with the district court that there was " 'no substantial evidence tending to show that the solicitation ordinances have had a racially discriminatory effect,' " particularly since " 'the only families barred from receiving solicitations are precisely those who are least likely to offer their homes for sale anyway . . . .' " NAR.App. 36, 935 F.2d at 887 (*quoting* 713 F. Supp. at 1094-95). The court of appeals concluded that the "minimal effect the solicitation restrictions impose upon real estate activity causes no discernable discriminatory effect on the potential home buying public, even if it is predominantly black." NAR.App. 37, 935 F.2d at 888.

As for sign regulations, each of the lower courts found no factual support for the Realtors' argument that the aesthetic purpose of the size and placement restrictions was pretextual. The unanimous panel of the Seventh Circuit noted that there was "nothing in the record that leads us to conclude that these aesthetic interests, declared in either the preamble or the text of the ordinances involved, were not the genuine purpose of each ordinance." NAR.App. 54, 935 F.2d at 897.

Finally, the lower courts' rejection was equally emphatic of the Realtors' race-based challenge to the South Suburban Housing Center's ("SSHC's") Apache Street affirmative marketing plan (issues thoroughly addressed in SSHC's Brief in Opposition, which the Municipalities adopt and

incorporate by reference). As SSHC ably demonstrates, moreover, two dispositive threshold issues bar reaching the merits of the Realtors' equal protection claim: their lack of third-party standing to litigate the rights of minority homeseekers, and the fact that the Plan was proposed, drafted, implemented, and funded by SSHC, thereby implicating no state action.

The Municipal Solicitation Ordinances

It is not surprising that the lower courts found the solicitation ordinances unobjectionable (racially or otherwise). They are not "anti-solicitation"; they merely let each resident decide whether to receive real estate solicitations in the privacy of his or her own home, and insist that the Realtors respect that decision.

For many years, real estate brokers have used a variety of high-pressure tactics to obtain home listings from residents of the Municipalities. They have conducted door-to-door campaigns near recently sold homes, launched mass telephone "surveys" of residents inquiring about their plans to move, and sent repeated mailings of various subtle or not-so-subtle solicitation materials to the same residents, through a technique called "farming." *See, e.g.*, Jt.App. 388-91, 541-44; R.365-1; Tr. 3918-19, 3929, Benkendorf. Indeed, the President of GSSBR testified during trial that the homes in his market area could receive fifty or more contacts in a single year from real estate agents in hot pursuit of listings. Jt.App. 390-91.

Unrelenting and unwanted real estate solicitations in the homes of Municipal residents are more than an annoyance. They intrude on privacy and, for many, do more than that. Many residents, both black and white, previously lived in Chicago neighborhoods which experienced the

devastating social and economic consequences of racial resegregation following massive real estate sales campaigns. *See, e.g.*, Jt.App. 554-60, 563-64; Tr. 5468-69, Dubruiel. Having moved to the Municipalities for the express purpose of living in integrated communities, they are understandably sensitive to real estate solicitation techniques that serve as threatening and intrusive reminders of the process of resegregation that overtook their former communities. *See, e.g.*, Jt.App. 513-14, 630-65; R.348-2; Tr. 6485-87, Martin. For that reason, the district court, in upholding the solicitation ordinances, expressly found that extensive real estate solicitation "is widely perceived to be destabilizing to an integrated community." NAR.App. 114, 713 F. Supp. at 1094. Thus, the Realtors' solicitation practices in the Municipalities, more than any other form of commercial solicitations, have provoked repeated complaints, from residents to Municipal officials. *See, e.g.*, Jt.App. 453, 481-82; Tr. 6285, Roberts; Tr. 6395, 6495-97, 6705-06, Martin.

Whether the resident's concern is privacy in the home, or a desire to be shielded from excessive real estate solicitations, the ordinances provide an option that can be activated only by the affirmative act of the individual homeowner, who, to be covered by the ordinance, must indicate in writing (orally revocable at any time) that he or she does not want to move and does not wish to be solicited by real estate agents. NAR.App. 142-48. The ordinances prohibit solicitation, but only to these specifically self-selected residents, which in each Municipality amount to a quarter or less of the households. *See, e.g.*, Jt.App. 514 (Matteson, 25%); MX199 (Glenwood, 23%); Jt.App. 568 (Hazel Crest, 20%); Tr. 6632, Martin; MX24 (Country Club Hills, 2.7%); Tr. 5153, Perry (Park Forest, 0.2%). Even as to those households, the prohibition is limited to in-

home solicitations, and there is an exemption for solicitations by media of general circulation. *See* NAR.App. 144-45, 147-48; M.App. 1.

Each ordinance requires the Municipality to compile a list of residents signing nonsolicitation cards, to maintain and post it at the Municipal Clerk's office, and to distribute the updated list at least annually to all real estate agents doing business in the area.[3] NAR.App. 142-44, 146-48. No administrative or enforcement action occurs unless and until there has been a complaint to the Municipality by an offended resident on the nonsolicitation list. *Id.*; Tr. 5274-75, Cardona; Tr. 3012, McGinness; Tr. 5478-79, Dubruiel. Finally, to eliminate any uncertainty (real or contrived) as to the scope of covered solicitations, the Municipalities have published an enforcement policy stating that, with respect to homeowners on the nonsolicitation list, "*any* business or promotional communication by a real estate broker to a homeowner in his or her home which is not carried out by media of general circulation" is covered.[4] NAR.App. 13-14, 935 F.2d at 876 (emphasis

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[3] The Realtors' suggestion that the solicitation ordinances target only GSSBR members, *see* Petition at 6, is plainly untrue. The ordinances apply to "any real estate agent, broker or salesperson" doing business in the Municipality, without regard to trade association membership, and all enforcement procedures make no distinction between GSSBR members and non-members. *See, e.g.*, R.App. 141.

[4] The fact that all Realtor business or promotional communication to homeowners are solicitations (i.e., intended to induce business, sooner or later) has not been seriously contested by the Realtors in the Petition. As they concede, "[b]rokers attract referrals and listings by distributing an eclectic variety of written materials. These materials may include certificates for a free evaluation of a home's market value, information about the broker's credentials,

(Footnote continued on following page)

added); M.App. 38 (enforcement policy from Country Club Hills attached for reference).

Protection of residential privacy was and is fundamental to the solicitation ordinances. Contrary to the Realtors' false assertions, Petition at 7, 22, the legislative history even of the original solicitation ordinances shows that one of their purposes, as the district court found, was to "provide a method for a resident to obtain a measure of privacy by avoiding annoying and intrusive inquiries about residential plans." NAR.App. 115, 713 F. Supp. at 1094. In originally passing the solicitation ordinances, the Municipalities relied on a legislative commentary that made explicit reference to *Rowan v. Post Office Department*, 397 U.S. 728 (1970), this Court's decision upholding the protection of residential privacy from commercial intrusion. *See, e.g.*, Jt.App. 781, 795. Later, one Municipality made explicit findings regarding privacy as a foundational element of its solicitation ordinance:

> [T]hat real estate solicitations, conducted by mail, direct delivery, telephone or in person and directed at residents who do not desire to sell, rent or list their dwellings for sale or rental, invade[ ] the privacy of these residents and create[ ] unwanted pressure to move from their dwellings.

Jt.App. 776.[5]

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[4] *continued*
holiday greeting cards and calendars, announcements of promotional contests, and catalogues of homes available for sale. Brokers also may use telephone calls to identify residents who are interested in their services." Petition at 19.

[5] In any event, a municipality may assert in defense of the validity of its ordinances an interest other than that which prompted their original enactment. *See, e.g., Bolger v. Youngs Drug Prods. Corp.*, 463 U.S. 60, 71 (1983) ("insufficiency of the original motivation does not diminish other interests that the restriction may now serve").

The privacy protections of the solicitation ordinances have been invoked by a broad cross-section of Municipal families—both "black and white, newcomers and oldcomers." NAR.App. 116, 713 F. Supp. at 1094. Moreover, contrary to the Realtors' suggestion that the Municipalities "repeatedly solicit[ed]" residents to participate, *see* Petition at 7, the district court found that the most active three of the nine Municipalities had done nothing more than "actively publicize" the existence of these ordinances, NAR. App. 115, 713 F. Supp. at 1094, which was appropriate because many residents in those communities were unaware of the existence of the ordinances. *See* Jt.App. 452-54, 481-82, 579. The three Municipalities did nothing more than send a mailing of returnable nonsolicitation requests to all residents, with an explanation of how the ordinance worked. *See, e.g.*, Jt.App. 1184, 1195, 1198. There was absolutely no evidence that any Municipality pressured, frightened, tricked, or intimidated its residents into signing nonsolicitation requests. Indeed, in the Municipality with the highest percentage of households on the nonsolicitation list, Realtors are still free to solicit more than 75% of the households in that community. Jt.App. 514.

Thus, the solicitation ordinances are carefully drawn and limited to protect the right of privacy in the homes of those residents who have affirmatively invoked that right, while preserving the ability of Realtors to ply their trade among all but a self-selected, uniquely unpromising class of potential customers. As noted by both lower courts, the only people blocked from the Realtors' commercial pleading are those who have specifically said they do not want to hear it.

Nor have the ordinances impeded Realtors in their efforts to solicit residents not on the list. As the appellate court concluded, the names on the nonsolicitation lists can

easily be deleted from the Realtors' mailing lists. NAR. App. 36 n.16, 935 F.2d at 888 n.16. Similarly, there is no credible evidence in the record that Realtors are unable to use cooperative or bulk mailing companies because of the ordinances. *See* Petition at 7.[6]

The Municipal Sign Ordinances

Throughout their Petition the Realtors characterize the various sign ordinances as if the Municipalities regulate only real estate "for sale" signs.[7] In fact, as both the district and appellate courts found, the four real estate sign regulations at issue here are all components of broader, comprehensive sign regulatory systems, grounded in aesthetic concerns, contained within the zoning or building codes of those Municipalities, and imposing comparable limitations on other varieties of signage. *See, e.g.*, NAR. App. 14-15, 53-55, 935 F.2d at 877, 896-97; NAR.App. 110-11, 713 F. Supp. at 1092-93.

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[6] Although there was evidence at trial that one bulk mailing company was unwilling to delete nonsolicitation addresses from such mailings, the impact of this lone decision on Realtor marketing efforts was inconsequential. There was no evidence that this company's policy was standard in the industry, or that an adequate sorting process was technologically or commercially infeasible, or that this policy would not have been modified for a reasonable fee. In any event, there was testimony from Realtors themselves that such mass mailings are less effective than personalized mailings, which can be sorted quite easily to avoid nonsolicitation households. *See, e.g.*, Jt.App. 416-18; Tr. 3964, 3972-73, Zaczek.

[7] The Realtors incorrectly refer to these as "real estate sign" ordinances, when they are in fact omnibus sign ordinances. They also seek to muddy the waters by referring to prior, repealed sign bans of Glenwood and University Park, which are not at issue here. *See* Petition at 9.

These sign ordinances restrict the size, placement, number, and illumination of a variety of signage in residential areas, including real estate "for sale" and other commercial and political signs, for the purpose of preserving and enhancing the visual beauty of these suburban communities. *See, e.g.*, M.App. 1-37. This purpose is reflected in the preambles of all of the ordinances. For example, the prefatory section of Matteson's zoning code regarding signs provides that

> [t]his section is established to create the standards for a comprehensive and balanced system of signs for the Village to achieve the following purposes:
>
> . . . .
>
> (4) *Aesthetic Appreciation.* To protect the physical and mental well being of the general public by encouraging a sense of aesthetic appreciation for the Village's visual environment.

M.App. 2; *see also* M.App. 24-25 (Park Forest, § 31-145(a)), 34 (Country Club Hills), 36-37 (University Park).

The Municipal sign ordinances do not regulate real estate signs in a manner materially different from other varieties of signage. For example, University Park regulates "for sale" signs similarly to political signs, and permits them both to be of any size so long as they are placed in the window of a home. M.App. 37. Country Club Hills imposes the same size requirements on real estate signs as it does on garage sale signs. M.App. 34, 36. Matteson permits real estate signs to be larger than religious and historic symbols, warning signs, directional signs, and business nameplates. M.App. 3-4. Park Forest exempts real estate signs from the location and illumination requirements applicable to other varieties of residential signs. M.App. 26-27, 30. These latter three Municipalities

allow "for sale" signs ranging in size from three to eight square feet. M.App. 4, 27, 34.

The district court found that "for sale" signs, as regulated by the Municipalities, remain a cost-effective form of advertising. The court noted that there was "little evidence that the sign regulations resulted in measurable lost income for realtors," and further that the regulations "leave open ample alternative channels for communication of [real estate] information." NAR.App. 106, 111, 713 F. Supp. at 1090, 1093. Indeed, after reviewing the full record the court of appeals concluded that the sign ordinances "further the localities' interest in aesthetics while permitting a 'for sale' sign to inform interested persons of the availability of a home." NAR.App. 55, 935 F.2d at 897.

The District Court's Decision

In the district court, the Realtors launched an across-the-board attack on virtually every Municipal ordinance touching upon the real estate business. They challenged the solicitation ordinances, the sign ordinances, and other Municipal programs and ordinances under the Fair Housing Act, 42 U.S.C. § 1982, 42 U.S.C. § 1983, and a variety of constitutional claims, all pursuant to one pervasive theme: that the Municipalities manipulated the real estate market with the invidious intent to exclude black homeseekers and maintain the racial status quo.

After patiently hearing eight weeks of testimony and sifting through a mountain of evidence, proposed findings of fact and conclusions of law, and trial briefs, the district court rejected all of the Realtors' race-based Fair Housing Act claims (including those directed against the solici-

tation ordinances and the sign regulations). He found that the Realtors had failed to make "any credible showing" that the sign ordinances made housing unavailable or were enacted or administered discriminatorily, NAR.App. 107, 713 F. Supp. at 1091, and he found the record "devoid of substantial evidence" tending to show that the solicitation ordinances were racially discriminatory in intent or effect, NAR.App. 115, 713 F. Supp. at 1094.

The court went on to hold the solicitation ordinances constitutional under the First Amendment and Due Process Clause to the extent that they prohibit real estate solicitations "actually seeking to induce the sale, rental or listing of dwellings." NAR.App. 131, 713 F. Supp. at 1101. The court also upheld the sign ordinances in their entirety, finding them to be racially neutral, "modest and reasonable" regulations that promote community aesthetics without impeding the flow of real estate information. NAR.App. 106-11, 713 F. Supp. at 1090-93.

The Court of Appeals' Decision

On appeal to the Seventh Circuit, the Realtors abandoned many of their claims, but continued to challenge the Municipal solicitation ordinances under the Fair Housing Act, the First Amendment, the Due Process Clause, and the Equal Protection Clause, and the sign regulations under the First Amendment.

The court of appeals upheld the validity of the solicitation ordinances in their entirety against all challenges, holding that the Realtors had "pointed to nothing in the record that would *even remotely* demonstrate that the purpose of these facially neutral limitations on solicitation was to cause blacks to suffer racial discrimination." NAR.

App. 35, 935 F.2d at 887 (emphasis added). As to effects, the court said:

> [W]e believe it is significant that "the only families barred from receiving solicitations are precisely those who are least likely to offer their homes for sale anyway . . . ." Consequently, any effect upon the sale of homes will be minimal because the only persons who cannot be contacted under the ordinances are those who have requested that their privacy not be disturbed and thus are not interested in receiving real estate solicitations. In our opinion, the minimal effect the solicitation restrictions impose upon real estate activity causes no discernable discriminatory effect on the potential home buying public, even if it is predominantly black.

NAR.App. 36-37, 935 F.2d at 888 (*quoting* 713 F. Supp. at 1094).

With respect to the Realtors' First Amendment challenge to the solicitation ordinances, the court, in a straightforward application of *Central Hudson Gas & Electric Corp. v. Public Service Commission*, 447 U.S. 557 (1980), and *Board of Trustees of State University of New York v. Fox*, 492 U.S. 469 (1989), and drawing extensively from this Court's decisions in *Rowan v. Post Office Department*, 397 U.S. 728 (1970), and *Frisby v. Schultz*, 487 U.S. 474 (1988), held that the ordinances' restrictions on Realtors' commercial speech directly advanced the Municipalities' substantial governmental interest in protecting residential privacy, and did so in a manner no more extensive than necessary. NAR.App. 37-49, 935 F.2d at 888-94. The court also disposed of the Realtors' equal protection claim, holding that these "narrowly drafted" ordinances achieved a reasonable fit between the goal of protecting residential privacy and the means chosen to effectuate it. NAR.App. 52-53, 935

F.2d at 895-96. Finally, the court dispatched the Realtors' vagueness challenge, noting that the "clear and unambiguous" terms of the ordinances inform the Realtors precisely of what conduct falls within their scope: all business communications to the homes of residents on the nonsolicitation list. NAR.App. 50-52, 988 F.2d at 894-95.

The court of appeals also upheld the Municipal sign regulations against the Realtors' First Amendment challenge. Once again applying the *Central Hudson* analysis, the court held that the ordinances directly advanced their stated and actual purpose of promoting the quality of residential aesthetic appearance in a manner reasonably related to effectuating that purpose, without imposing a burden on Realtors or the homeseeking public. NAR.App. 54-55, 935 F.2d at 896-97.

On July 3, 1991, the Realtors filed a Petition for Rehearing with Suggestion for Rehearing *En Banc*. On September 5, 1991, the Court of Appeals denied the Petition, noting that all judges on the unanimous panel had voted to deny a rehearing and that no circuit judge had requested a vote on the Realtors' application for an *en banc* rehearing. NAR.App. 62-63.

REASONS FOR DENYING THE WRIT

As shown above, the racially charged accusations of the Realtors have been wholly discredited and have no application to this case. There was no "manipulation" of the real estate market; there was no intent to deny housing opportunities to or otherwise discriminate against blacks; there were no such effects or results. The important public and racially neutral purposes of protecting residential privacy and community aesthetics, far from being pretextual, were in fact the actual and legitimate purposes of the solicitation and sign regulation ordinances, neither of which materially impinged upon the Realtors' ability to communicate with interested homebuyers and homesellers.

The decisions of the courts below involved straightforward applications of well-established (and recently reaffirmed) First Amendment, Due Process, and Equal Protection principles. The decisions broke no new legal ground, are consistent with governing precedent, and present no conflicts with the decisions of this Court or any other federal appellate court. Nothing in this case, therefore, warrants this Court's further consideration.

I.

THE SOLICITATION ORDINANCES ARE CONSTITUTIONALLY VALID REGULATIONS OF UNWANTED COMMERCIAL SPEECH.

A. *Central Hudson* Supplies the Appropriate Standard of Scrutiny for Municipal Solicitation Ordinances.

The Realtors acknowledge that solicitations of residents on the nonsolicitation list "do[ ] indeed concern a proposed commercial transaction," Petition at 19-20, and therefore

constitute commercial speech. *See, e.g., Board of Trustees of State Univ. of N.Y. v. Fox*, 492 U.S. 469, 473 (1989). Nevertheless, they attempt to elevate their solicitations to a level of importance that surpasses even core, political speech and argue for a standard of scrutiny more stringent than that required in *Central Hudson*. *See* Petition at 19-20. This plea is a predicate to the Realtors' argument that the court of appeals should have accorded no deference to the Municipalities' judgment regarding the appropriate "fit" between the ordinances' means and ends, notwithstanding the long line of decisions by this Court that such deference is appropriate in commercial speech cases. *Id.*; *see* NAR.App. 45-46, 935 F.2d at 892; *see, e.g., Fox*, 492 U.S. at 478-81; *Posadas de Puerto Rico Associates v. Tourism Co.*, 478 U.S. 328, 343-44 (1986); *Metromedia, Inc. v. City of San Diego*, 453 U.S. 490, 508-10 (1981).

The Realtors' argument that an elevated status should be accorded to their solicitations predictably finds no support in this Court's jurisprudence. Indeed, the premise of this argument—that real estate solicitations have heightened importance to Municipal residents—is flatly contradicted by the record in this case. As the court of appeals and district court recognized, real estate solicitations have *no* value (and, in fact, are annoying, intrusive, and upsetting) to homeowners who have affirmatively requested that such solicitations be excluded from their homes. NAR. App. 36, 935 F.2d at 888.

Furthermore, contrary to the Realtors' assertions, the deference to legislative judgments required by *Central Hudson*, *Metromedia*, *Posadas*, and *Fox* is not eliminated when the speech "concerns lawful activity and is not misleading." Petition at 20-21. That, of course, is *Central Hudson*'s *threshold* requirement before commercial speech is accorded *any* First Amendment protection. *See* 447 U.S.

at 564. The Realtors apparently would have this Court exempt unwanted real estate solicitations from standard judicial scrutiny while at the same time subjecting commercial speech that is valued by its recipients to the requirements of the *Central Hudson* test.

Finally, the Realtors' repeated references to the "content-based" nature of the solicitation restrictions are, purely and simply, red herrings. Governments are accorded reasonable flexibility in enacting content-based regulations of commercial speech. *See, e.g.*, NAR.App. 38, 935 F.2d at 888-89 (citing cases); *see also Central Hudson*, 447 U.S. at 564 n.6 (discussing reasons why content-based restrictions on commercial speech are permitted). This Court repeatedly has emphasized the subordinate position of commercial speech, the limited nature of its First Amendment protection, and the fact that "modes of regulation that might be impermissible in the realm of noncommercial expression" are permissible with regard to commercial speech. *Fox*, 492 U.S. at 477. So long as the regulation of commercial speech satisfies *Central Hudson*, the fact that it is content-based is not significant. *See, e.g.*, *Posadas*, 478 U.S. at 342-44 (upholding ban on local advertising of casino gambling but not on other lawful activities).[8]

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[8] The Realtors posit a supposed conflict between the Seventh Circuit's decision here and the Sixth Circuit's in *Discovery Network, Inc. v. City of Cincinnati*, 946 F.2d 464 (6th Cir. 1991), which they cite for the proposition that content-based restrictions on truthful commercial speech will be upheld only if they are narrowly drawn to accomplish a compelling state interest. Petition at 21. In *Discovery Network*, however, the court first analyzed the regulations at issue under the *Central Hudson* test and then, as an alternate holding, analyzed them under the familiar "content neutrality" tests applicable to *noncommercial* speech. *See* 946 F.2d at 472-73 (relying on *Barnes v. Glen Theatre, Inc.*, 111 S. Ct. 2456, 2474 (1991) (White, J., dissenting), which addressed regulations of noncommercial speech).

B. The Solicitation Ordinances Directly Advance the Substantial Governmental Interest in Protecting Residential Privacy in a Manner No More Extensive Than Necessary to Serve That Interest.

Consistent with their attempt to exempt their unwanted commercial speech from the *Central Hudson* test, the Realtors pepper their Petition with irrelevant references to cases dealing with noncommercial speech or addressing outright bans of certain speech (not, as here and in *Rowan*, with governmental mechanisms regulating commercial speech only after particular residents affirmatively express their desire not to receive it). *See, e.g., Bolger v. Youngs Drug Prods. Corp.*, 463 U.S. 60 (1983) (government ban of contraceptive advertising before potential recipient stated whether mailing was desired); *Carey v. Brown*, 447 U.S. 455 (1980) (noncommercial speech). As the court of appeals held, however, the Municipal solicitation ordinances are constitutionally valid regulations of commercial speech: they were enacted to further the substantial governmental interest in protecting residential privacy, they directly advance that privacy interest, and they are no more extensive than necessary to serve it. NAR.App. 37-49, 935 F.2d at 888-94.

The Realtors' repeated assertion that the protection of residential privacy was "pretextual" and not an actual Municipal purpose has been addressed above and will not be repeated here, except to note that the tone of the Realtors' argument betrays an acknowledgement that the privacy interest, unless contrived, is constitutionally sufficient. *See supra* pp. 8, 14. As both courts expressly found, privacy was an actual purpose of the ordinances, and the Realtors never have contested that the protection of residential privacy is indeed a "substantial" governmental interest. *See* NAR.App. 44, 935 F.2d at 891.

That the solicitation ordinances directly advance the privacy interests of the residents is equally clear. When particular residents expressly indicate that they do not want the privacy of their homes invaded by real estate solicitations, it is difficult to imagine an ordinance that more directly effectuates that interest than one which prohibits such solicitations in the homes of those persons (but only those persons).

The Realtors' assertion that the Court of Appeals "never said how" the solicitation ordinances directly advance the governmental interest in protecting residential privacy is simply wrong. The Realtors' Seventh Circuit argument on this point was that the ordinances do not directly advance privacy because they are "underinclusive" in regulating only real estate solicitations. *See* NAR.App. 44, 935 F.2d at 891-92. The court correctly concluded that an ordinance's alleged "underinclusiveness" is irrelevant to the question whether it "directly advances" the governmental goal. *Id.* Local governments are not and cannot be required to deal comprehensively with all conceivable aspects of a problem, but may select those particular aspects that they conclude, in the exercise of their considerable discretion, warrant present attention. *See, e.g., Posadas*, 478 U.S. at 342-44; *Metromedia*, 453 U.S. at 511.

Moreover, under this Court's decisions in *Central Hudson*, *Metromedia*, *Posadas*, and *Fox*, there is no requirement that the particular kind of commercial speech regulated be more intrusive or intrinsically more harmful than other forms of commercial speech. *See id.* If that were a requirement, every regulated form of commercial speech would have to be scrutinized against every unregulated form of speech, to make sure that the unregulated speech is not equally or more "intrusive" or "harmful" than the regulated speech. That would be a quagmire of compara-

tive analysis, entangling the courts in just the kind of minute second-guessing of governmental decisionmaking that *Central Hudson* eschews.

In any event, the evidence demonstrated overwhelmingly that real estate solicitations *are* inherently more intrusive than other commercial solicitations. The home's unparalleled symbolic and emotional importance as a private preserve, and its financial significance to the family—facts the Realtors themselves emphasize, *see* Petition at 20—coupled with the fact that, for many Municipal residents, real estate solicitations are unsettling reminders of past aggressive real estate activity that contributed to resegregation in their former communities, make the regulation of real estate solicitations into the home particularly appropriate. Solicitations for such things as "fast food and dry cleaning services," Petition at 21, simply do not implicate residential privacy to the same degree, or provoke the same magnitude of widespread complaints, as real estate solicitations.

Finally, the solicitation ordinances are no more extensive than necessary to achieve the goal of protecting residential privacy; there is a "reasonable fit" between the ordinances' means and ends. The ordinances impose negligible (if any) burdens on Realtors, while providing those residents who desire to shield themselves from unwanted real estate solicitations in their homes a means by which to do so. *See* NAR.App. 45-49, 935 F.2d at 892-94.

C. The Court of Appeals Faithfully Followed *Rowan* and *Frisby*.

The Seventh Circuit's decision is entirely consistent with this Court's longstanding endorsement of the right to residential privacy, discussed comprehensively in *Rowan* and recently reaffirmed in *Frisby*:

> "The State's interest in protecting the well-being, tranquility, and privacy of the home is certainly of the highest order in a free and civilized society." Our prior decisions have often remarked on the unique nature of the home, "the last citadel of the tired, the weary, and the sick," and have recognized that "[p]reserving the sanctity of the home, the one retreat to which men and women can repair to escape from the tribulations of their daily pursuits, is surely an important value."

Frisby, 487 U.S. at 484 (citations omitted).

In language directly relevant to the issues here, this Court reiterated the right of the citizen to avoid speech intruding upon residential privacy and the concomitant right of government to enact legislation to facilitate the exercise of that right:

> One important aspect of residential privacy is protection of the unwilling listener. Although in many locations we expect individuals simply to avoid speech they do not want to hear, the home is different. "That we are often 'captives' outside the sanctuary of the home and subject to objectionable speech . . . does not mean we must be captives everywhere." *Rowan v. Post Office Dept.*, 397 U.S. 728, 738 (1970). Instead, a special benefit of the privacy all citizens enjoy within their own walls, which the State may legislate to protect, is an ability to avoid intrusions. Thus, we have repeatedly held that individuals are not required to welcome unwanted speech into their own homes and that the government may protect this freedom.

Id. (citations omitted). As this Court held in *Rowan*, "a mailer's right to communicate must stop at the mailbox of an unreceptive addressee." 397 U.S. at 736-37.

The Realtors now claim that the Seventh Circuit erred in finding that *Rowan* provided dispositive (but not exclusive) support for the constitutionality of the ordinances.

Surely the court was correct, however, that the solicitation ordinances and the federal statute in *Rowan* are "materially indistinguishable for First Amendment purposes." NAR.App. 47, 935 F.2d at 893. Under both the solicitation ordinances and the federal statute, residents are given the right to insulate themselves from a particular category of mail—in *Rowan*, sexually explicit mail; in the Municipalities, real estate solicitations in the home. (Thus, the ordinances are not, as the Realtors claim, distinguishable from the statute in *Rowan* on the basis of the statute's supposed "content neutrality.") As in *Rowan*, the solicitation ordinances circumscribe the Realtors' right to communicate only when residents give an affirmative notice that they wish no further solicitations. And, as in *Rowan*, it is the homeowner, not the Municipal government, who exercises sole discretion whether to receive the solicitations. NAR.App. 40, 46-49, 935 F.2d at 890, 893-94.

Finally, the Realtors' contention that the ordinances somehow "stifle" expression of their viewpoint regarding real estate solicitations is absurd. *See* Petition at 24. Under the ordinances the Realtors are free to engage in noncommercial speech, even that reaching the homes of residents on the nonsolicitation list, in order to complain about the solicitation ordinances, to urge their repeal, or to engage in any other form of noncommercial speech regarding these ordinances. The free and unfettered exchange of ideas is not in any way threatened or adversely affected by these ordinances.

D. The Solicitation Ordinances Provide Clear Warning Regarding the Scope of Prohibited Conduct.

In a one-paragraph argument, the Realtors claim that the court of appeals erred in upholding the solicitation

ordinances against their vagueness challenge. Petition at 25-26. In so arguing, however, the Realtors once again distort the appellate decision by asserting that the court ruled "that it saw 'no substantial risk of miscalculation' if brokers simply 'refrained [sic] from further [sic] communication to these addressees [sic].' " Petition at 25 (*quoting* NAR.App. 52, 935 F.2d at 895). The Realtors have failed to quote the court's entire sentence:

> The clear and unambiguous terms of the ordinances . . . direct the Realtors precisely as to what they must do when they receive a copy of the list of householders who wish to exclude real estate solicitations from their mail: They must simply remove the names of the parties from their mailing lists and refrain from future communication to these addressees who do not desire solicitation.

NAR.App. 51-52, 935 F.2d at 895.

The court obviously did not, as the Realtors contend, hold that Realtors must "cease all arguably protected activity in order to resolve vagueness in the law's terms." Petition at 25. Rather, it held that because of the ordinances' clear and unambiguous terms, there is no need to speculate as to their scope. Long before the court of appeals' opinion, the Municipalities' published enforcement policy spoke with equal clarity: "any business or promotional communication by a real estate broker to a homeowner in his or her home which is not carried out by media of general circulation" is covered by the ordinance, if (but only if) that homeowner is on the nonsolicitation list. There is no vagueness here.

E. The Solicitation Ordinances Are Rationally Related to the Legitimate and Important Governmental Purpose of Protecting Residential Privacy.

The Realtors' equal protection challenge to the solicitation ordinances flies in the face of this Court's holding in *Posadas* that "[i]f there is a sufficient 'fit' between the legislature's means and ends to satisfy the concerns of the First Amendment, the same 'fit' surely is adequate under the applicable 'rational basis' equal protection analysis." 478 U.S. at 344 n.9. The only basis on which the Realtors purport to distinguish *Posadas* (and without any citation to authority) is that it concerned advertising of an activity that the government could ban altogether. Petition at 24. *Posadas*, however, does not stand alone, for in *Fox* this Court reaffirmed that the *Central Hudson* analysis is more rigorous than that employed under the Equal Protection Clause. 492 U.S. at 480. *Fox* did not involve speech that the government could ban altogether, and, indeed, this Court did not even mention that issue in its decision. Both *Posadas* and *Fox*, therefore, provide ample support for the appellate court's conclusion that the solicitation ordinances provided an adequate "fit" between means and ends to satisfy equal protection scrutiny.

II.

THE MUNICIPALITIES' LIMITED REGULATION OF REAL ESTATE SIGNAGE COMPORTS WITH THE FIRST AMENDMENT AND HAS NO ADVERSE EFFECT ON THE DISSEMINATION OF HOUSING INFORMATION.

The Realtors' challenge to the Municipal sign ordinances is grounded in the discredited claim that community aesthetics was not the "real" purpose of the ordinances, but instead was a "pretext" to the Municipalities' intent "to

preserve the racial status quo." Petition at 26. It is too late for that factual contention.

The district court expressly found that the declared purpose of the sign ordinances—the promotion of community aesthetics—was in fact their actual purpose, and found that the Realtors had "adduced no substantial evidence that the stated purposes of the legislation were in any way contrived or pretextual." NAR.App. 107, 713 F. Supp. at 1091. The unanimous appellate court agreed, noting that there was "nothing in the record that leads us to conclude that these aesthetic interests, declared in either the preamble or the text of the ordinances involved, were not the genuine purpose of each ordinance." NAR.App. 54, 935 F.2d at 897. Both courts categorically rejected the Realtors' claims that the ordinances had the effect of squelching speech, or impairing or hindering the ability of minorities to find homes in the Municipalities. NAR. App. 55, 935 F.2d at 897.

The Realtors do not even mention these findings, much less argue or demonstrate that they are clearly erroneous. The Realtors' challenge to the sign ordinances, therefore, like the balance of their Petition, reduces to mere dissatisfaction with the outcome of an extensive trial and carefully reviewed findings. Such claims clearly do not warrant this Court's intervention.

CONCLUSION

For the foregoing reasons, the Petition for Writ of Certiorari should be denied.

Dated: January 6, 1992

Respectfully submitted,

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APPENDIX

PARK FOREST SOLICITATION ORDINANCE

Park Forest's solicitation ordinance defines "solicitation" as follows:

Sec. 24½-1.

Solicitation means any conduct (excluding advertisement in newspapers, magazines or broadcast media of general circulation) designed or intended to induce the owner of any real property (as hereinabove defined) to sell, rent, exchange, convey, transfer or list for sale or rental such real property.

MUNICIPAL SIGN ORDINANCES

Matteson

159.55 SIGNS

(A) *Purpose.* This section is established to create the standards for a comprehensive and balanced system of signs for the Village to achieve the following purposes:

(1) *Communication.* To facilitate an easy and pleasant communication between people and their environment by authorizing the use of signs which are:

(a) Compatible with their surroundings;

(b) Appropriate to the type of activity to which they pertain;

(c) Expressive of the identity of individual proprietors as well as of the community as a whole;

(d) Legible in the circumstances in which they are seen; and

(e) Respectful of the reasonable rights of other sign owners.

(2) *Public Welfare.* To preserve, protect, and promote the public health, safety, and welfare.

(3) *Balance Economy.* To balance the economy, and the Village business and industrial activity by promoting the reasonable, orderly, and effective display of signs.

(4) *Aesthetic Appreciation.* To protect the physical and mental well being of the general public by encouraging a sense of aesthetic appreciation for the Village's visual environment.

(5) *Architectural Elements.* To ensure that signs are designed as integral architectural elements of the building and site to which they principally relate.

(6) *Private Property.* To preserve the value of private property by assuring the compatibility of signs with surrounding land uses.

(B) *Scope.* No sign shall be constructed, erected, originally painted, converted, altered, rebuilt, enlarged, remodeled, relocated, or expanded until a permit for such sign has been obtained from the Director of Community Development in accordance with the standards and procedures set out in this section. The required fee shall be paid upon application for such permit. However, no permit shall be required for maintenance as outlined in a following paragraph of this section.

(C) *Exemptions.* The following shall be exempt from all but the maintenance and public safety requirements of this code.

(1) *Emblems.* Emblems of governmental or political, civic, philanthropic, educational or religious organizations displayed on private property.

(2) *Government Signs.* Signs of a duly constituted governmental body, including traffic or other similar regulatory devices, directional signs, legal notices, warnings at railroad crossings, and other instructional or regulatory signs having to do with health, hazards, parking, swimming, dumping, etc.

(3) *Memorial Signs.* Memorial signs or tablets listing names of buildings and date of erection, when cut

into any masonry surface or inlaid so as to be part of the building or when constructed of bronze or other incombustible material.

(4) *Addresses.* Address numerals and other signs required to be maintained by law or governmental order, rule, or regulation provided that the content and size of the sign do not exceed the requirements of such law, order, rule, or regulation.

(5) *Directional Signs.* Non-electrical signs, not exceeding 4 square feet (0.37 square meters) in area, which provide instruction or direction and are located entirely on the property to which they pertain to identify rest rooms, public telephones, walkways, parking lot entrances and exits, and features of a similar nature. Such signs may not bear the name of a business enterprise or any other advertising information.

(6) *Holiday Decorations.* Displays of a primarily decorative nature, clearly incidental and customary and commonly associated with any national, local or religious holidays.

(7) *Business Nameplates.* Non-electrical nameplates denoting the business name of an occupation legally conducted on the premises, provided that the sign area does not exceed 2 square feet (0.19 square meters) in area.

(8) *Bulletin Boards.* Bulletin boards, not exceeding 40 square feet (3.73 square meters), for religious institutions where the same are located on the premises of said institutions.

(9) *Warning Signs.* No-trespassing or no-dumping signs, not exceeding 1.5 square feet (0.14 square meters) per sign, and not exceeding 1 per lot, except that special permission may be obtained from the Director of Community Development for additional signs under proven special circumstances.

(10) *Religious and Historic Symbols.* Religious symbols, identification emblems of religious order, or com-

memorative plaques of recognized historical agencies, provided that no such symbol, plaque, or identification emblem shall exceed 4 square feet (0.37 square meters) and provided further that all such symbols, plaques and identification emblems shall be placed flat against a building, stone, or other permanent surface.

(11) *Residential For Sale or For Rent Signs.* Residential For Sale or For Rent signs are exempted to the extent that they conform to the following regulations:

(a) *Illumination.* Such signs shall not be illuminated.

(b) *Size.* No such sign shall exceed 8 square feet (0.74 square meters) in area.

(c) *Location.* All signs shall be located on the lot that they are advertising. No such sign shall be placed more than 15 feet (3.05 meters) from the building line.

(d) *Height.* No such sign or supporting structure shall project higher than 5 feet (1.53 meters) above ground level at that point where it is located.

(e) *Number.* There shall not be more than 1 sign per lot.

(D) *Messages.* The following restrictions shall govern messages permitted on signs:

(1) *Character.* No sign shall be permitted to contain statements, words, or pictures of an obscene, pornographic, immoral character, or which contain advertising matter which is untruthful.

(2) *Traffic Conflict.* No sign shall be permitted which purports to be or is an imitation of, or resembles an official traffic sign or signal.

(3) *Limited Words and Phrases.* No sign shall make use of the words "Stop," "Go Slow," "Caution," "Warning," "Look," "Drive In," "Danger" or any

word, phrase, symbol, or character in such manner as to interfere with, mislead, or confuse traffic.

(4) *Zoning Designation.* No sign shall recite that real property is zoned for land uses, or will be zoned for land uses in the future under the zoning rules and regulations of the Village, when in fact such real estate is not so zoned.

(5) *Land Use Designation.* No sign on real estate shall declare that the property is reserved for or is being held for future land use which is inconsistent with the then existing zoning classification of the Village for the land, or any words of like import of a similar nature.

(6) *Name or Type of Business.* Business or industrial signs shall pertain only to the name of business or type of business conducted on the premises.

(E) *Location.* The following restrictions shall govern sign location:

(1) *Block Exits.* No sign shall be erected or maintained so as to prevent free ingress or egress from any door, window, or fire escape.

(2) *Block Ventilation.* No sign shall interfere with any opening required for ventilation.

(3) *Electrical Conductors.* Signs shall be located in such a way that they maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with National Electrical Code Specifications, depending on voltages concerned. However, in no case shall a sign be installed closer than 2 feet (0.61 meters) horizontally or vertically from any conductor or public utility guy wire.

(4) *Block View.* No sign may be so located as to obstruct the view from a public thoroughfare or an existing sign, display window, or major entrance of an adjacent business.

(5) *Fire Safety.* No sign of any kind may be attached to a standpipe or fire escape or to any other fire-safety related device.

(6) *Traffic Conflict.* No sign shall be maintained at any location where by reason of its position, size, shape, or color, it may obstruct, impair, obscure, interfere with the view of, or be confused with, any traffic control sign, signal or device, or where it may interfere with, mislead or confuse traffic.

(7) *Vision Triangles.* No sign shall be located in any of the following vision triangles formed by intersecting streets. At any intersection where at least one of the intersecting streets is a major or collector street as defined in the Comprehensive Plan of the Village, the sides of the triangle formed by the centerlines of the intersecting streets shall be 120 feet (36.60 meters) in length as measured outward from the point of intersection of said centerlines along such centerlines. At all other intersections, each of such sides shall be 80 feet (24.40 meters) in length.

(8) *Vegetation.* No signs shall be nailed, tacked, or otherwise affixed to trees or other vegetation.

(9) *Added Signs.* No advertising other than a permitted sign shall be placed on any sign support.

(10) *Painted Walls.* No signs shall be painted directly upon the exterior walls of a structure.

(11) *Vehicular Signs.* No vehicle or trailer which has attached thereto or located thereon any sign or advertising device shall be parked so as to be visible from a public right-of-way for the purpose of providing advertisement of products or directing people to a business or activity.

(12) *Off-Site Signs.* No off-site signs are permitted.

(13) *Public Right-of-Way.* No sign may be allowed to encroach upon the public right-of-way or public property. The Director of Community Development may grant exceptions from this requirement for signs

not exceeding 4 square feet (0.37 square meters) in area that direct motorists to places of public interest, including government facilities, schools and churches.

(14) *Residential Lot Lines.* No sign facing the side or rear lot line of an abutting residentially zoned lot shall be located within 50 feet (15.25 meters) of that residential lot line.

(F) *Height.* The following regulations shall govern sign height and clearance:

(1) *Free-Standing Signs.* No free-standing sign shall extend above the roof line of any principal building to which it relates. In no case shall any free-standing sign exceed 30 feet (9.15 meters) in height above grade.

(2) *Wall Signs.* No sign which is fixed to a wall of a building shall extend above the vertical surface of that wall.

(3) *Roof Signs.* One story flat-roofed buildings may have a roof sign which does not extend more than 3 feet (0.92 meter) above the roof line.

(4) *Vertical Clearance.* Any projecting or hanging sign or marquee must have a vertical clearance from the bottom of the sign to the grade below of 9 feet (2.75 meters).

(5) *Vertical Clearance Adjacent to Driveways and Parking Lots.* Any projecting or hanging sign or marquee located within 3 feet (0.92 meter) of a driveway or parking area shall have a vertical clearance from the bottom of the sign to the top of curb of 12 feet (3.66 meters).

(G) *Design and Mounting.* All signs shall be designed, constructed, and maintained to meet the requirements of the Matteson Building Code for wind pressure, dead load, foundations, and other structural and safety requirements. All signs shall be securely anchored in a manner acceptable to the Director of Community Development so they will not swing or come loose, or otherwise endanger persons.

(H) *Illuminated Signs.* All illuminated signs shall be subject to the following requirements:

(1) *Electrical Permit.* All electrical work on illuminated signs and signs with electrical wiring must be covered by a valid electrical permit.

(2) *Relettering.* Relettering which requires a change of electrical piping or sign wiring shall be subject to the approval of the Electrical Inspector.

(3) *Voltage.* The voltage of any electrical apparatus used in connection with the sign shall be conspicuously placed on that apparatus.

(4) *Moving Lights.* Illuminated signs shall not have any flashing, scintillating, travelling or blinking lights or rotating beacons, nor shall any beam of light be projected through a mechanism which periodically changes the color of the light reaching the sign. A sign on which the current time or temperature, or both, is indicated by intermittent lighting changes shall not be deemed to be a flashing sign if the lights do not exceed 40 watts per lamp, the changes are limited to the numerals indicating the time or temperature with no less than 7 seconds between changes, and the sign is in conformance with the other regulations for such signs in this section. A free-standing sign which contains an electronic message reader limited to displays with no less than 7 seconds between changes shall not be deemed to be a flashing sign.

(5) *Adjacent Property.* Signs shall be shaded wherever necessary to avoid casting bright light upon property located in any residential district or upon any public street or park.

(6) *Internal Illumination.* Internally illuminated signs shall permit light to shine through only the lettering and graphic elements of the sign, and shall be controlled to prevent glare.

(7) *Weatherproof Disconnect.* All electrical signs shall have a disconnect within sight of the sign. Outside sign disconnects must be weatherproof.

(I) *Permitted Number, Area and Configuration*

(1) *Sign Area Calculation.* The following methods shall be used to calculate the sign area of various types of signs:

(a) *Free-Standing and Projecting Signs.* For ground signs, pole signs, projecting signs, pylon signs, and roof signs, the sign area shall be calculated by measuring the entire area enclosed within the smallest regular geometric form, or combination of regular geometric forms, which may be inscribed to encompass the perimeter of the sign structure, excluding structural support members extending beyond the frame or background border of the sign. In the case of signs with more than 1 face, the area shall be computed only for the maximum single display surface which is visible from any 1 ground position.

(b) *Flush Signs.* For wall signs, awning and canopy signs, and exterior window signs, the sign area shall be calculated by measuring the entire area enclosed within the smallest regular geometric form, or combination of regular geometric forms, which may be inscribed to encompass all letters and graphic symbols of the sign, including horizontal spacings between such letters and symbols plus any additional portion of the background which is framed by a border, internally illuminated, consisting of a color or tone different than the wall to which the sign is attached, or projects more than 3 inches (7.6 centimeters) beyond the plane of the wall to which it is attached.

(2) *Signs in Residential Districts.* Identification signs for structures other than a dwelling unit are subject to the following regulations:

(a) *Area.* One identification sign per principal use is permitted, provided it does not exceed 10 square feet (0.93 square meters).

(b) *Location.* No such sign shall be closer than 8 feet (2.44 meters) to any side or rear lot line or closer than one-half the depth of the required front yard.

(3) *Signs in Business Districts.* Business and identification signs in business districts are subject to the following regulations:

(a) *Area Without Building.* For business premises which do not contain buildings larger than 400 square feet (37.20 square meters), and which lawfully store their merchandise outside, the permitted sign area shall be calculated on the basis of 0.005 square feet (4.7 square centimeters) of sign area for each 1 square foot (0.93 square meter) of the subject parcel, up to a maximum of 80 square feet (7.44 square meters) of sign area.

(b) *Signs Attached to a Building.*

(i) The area in square feet (square meters) of all signs on a parcel shall not exceed 2 times the number of lineal feet (or 0.61 times the number of lineal meters) of the front of the principal building. Each side of a principal building facing a major public thoroughfare shall be considered a front for these purposes, but no signs based upon the calculation of 1 frontage may be located on another frontage.

(ii) *Number.* Only 1 sign per major thoroughfare frontage may be permitted for each principal business establishment.

(iii) *Location.* The length of such sign shall not exceed 70% of the length of the building wall on which the sign is located. The end of such sign shall be no closer to the ends of that wall or section of wall containing the sign than 15% of the length of that wall.

(iv) *Projection.* Except for movie theater marquees, and except for signs in the C1 district, no sign shall project more than 1 foot (0.31 meter) from the front of the structure. In the C1 district, signs may be permitted to extend over the public sidewalk, but shall not extend further than 6 feet (1.83 meters) or beyond the street-side edge of the public sidewalk, whichever is lesser.

(c) *Free-Standing Signs.*

(i) *Face Area.* Except in the C1 district, the area of each free-standing sign shall not exceed 120 square feet (11.16 square meters). When only 1 sign is erected but 2 are permitted, the surface area of each face of the erected sign may be increased up to an additional 50% of area. In the C1 district, the area of each sign shall not exceed 36 square feet (3.35 square meters).

(ii) *Number.* The number of free-standing signs permitted per business site shall be determined from the table below:

Zoning District	Site Area	Signs Per Amount of Arterial Street Frontage
C1	N.A.	1 total on site
C2	N.A.	1 per 500 feet (152.50 meters)
C3	N.A.	1 per 500 feet (152.50 meters)
C4	2 acres (0.81 hectare) or less	1 total on site
C4	More than 2 acres (0.81 hectare)	1 per 300 feet (91.50 meters)

(iii) *Message Limitation.* Free-standing signs may be used to identify a regional or community shopping center containing a site area of 5 acres (2.02 hectares) or more. Such signs may contain only the name of the shopping center, address of the center, and the center's logo. The names of individual tenants shall not be permitted on such signs.

(iv) *Message Boards.* Signs with changeable lettering may be permitted only as a part of free-standing signs and only upon the specific approval of the Plan Commission.

(4) *Signs in Industrial Districts.* Business and identification signs in Industrial Districts are subject to the following regulations:

(a) *Area Without Building.* For industrial premises which do not contain building areas larger than 400 square feet (37.20 square meters), and which lawfully store their merchandise outside, the permitted sign area shall be calculated on the basis of 0.005 square feet (4.7 square centimeters) of sign area for each 1 square foot (0.093 square meter) of the subject parcel, up to a maximum of 80 square feet (7.44 square meters) of sign area.

(b) *Area Related to Building.* The area in square feet (square meters) of all signs on a parcel shall not exceed 3 times the number of lineal feet (or 0.915 times the number of lineal meters) of the front of the principal building. Each side of a principal building facing a major public thoroughfare shall be considered a front for these purposes, but no signs based upon the calculation of 1 frontage may be located on another frontage.

(c) *Length.* No sign attached to a building shall exceed 70% of the length of the building wall on

which the sign is located. The ends of such sign shall be no closer to the ends of that wall or section of wall containing the sign than 15% of the length of that wall.

(J) *Signs with Unique Conditions*

(1) *Signs for Motor Fuel Dispensing Establishments.* Establishments that dispense motor fuel for sale to the public have been found to be unique because their primary functions are performed out-of-doors in a manner prescribed by State statutes. Therefore, the following regulations apply uniquely to such establishments:

(a) *Signs Attached to the Building.* The total face area of these signs, which includes all signs containing a commercial message, temporary or permanent, visible to the public from outside the building, shall not exceed 250 square feet (23.25 square meters).

(b) *Free-standing Signs.* The total face area of all free-standing signs shall not exceed 300 square feet (27.90 square meters). One free-standing sign may be permitted a height of 30 feet (9.15 meters) above grade. Two additional free-standing signs with a maximum height of 8 feet (2.44 meters) above the adjacent street curb level may be permitted.

(c) *Additional Signs.* In addition to the signs permitted by other sections of this code, the following signs are permitted to motor fuel stations.

(i) Two signs per pump island which designate the function of the island as "self service" or "full service." Such signs shall not have more than 2 faces and shall not exceed 3 square feet (0.28 square meter) per face.

(ii) One sign per type of fuel sold which designates the price of that fuel. Such signs shall not have more than 2 faces and shall

not exceed 6 square feet (0.56 square meter) per face. The sign area for more than 1 type of fuel may be combined into 1 sign.

(iii) One non-illuminated sign identifying the service performed in each service bay may be placed over the opening to each bay. Such signs shall have 1 face and shall not exceed 3 square feet (0.28 square meter) each.

(iv) One non-illuminated nameplate identifying the owner or operator is permitted adjacent to the doorway of the station. Such nameplate shall have 1 face and shall not exceed 2 square feet (0.19 square meter) in area.

(v) Temporary signs advertising batteries, tires, oil or other products directly related to motor vehicles, if the signs are located directly adjacent to a display of the product(s) described. Such signs may have 2 faces, however, their total area shall not exceed 10 square feet (0.93 square meter).

(vi) Any signs required by the State of Illinois or the Federal Government.

(d) Where the dispensing of motor fuel is only one of the business activities conducted on the premises, the unique sign conditions permitted in the paragraphs above apply only to the motor fuel dispensing operation and not to the other uses.

(2) *Real Estate Signs.* Signs for the sale or rental of real estate have been found to be unique because the premises upon which such signs are located is the product advertised and the scale of that product is quite large. Because of this uniqueness, a sign may be permitted for the purpose of selling or renting any lot or group of lots and/or any existing or proposed

building or group of buildings or segment thereof (excluding individual residential dwelling units) based upon the following regulations:

(1) *Eighty Square Feet or Less.* Signs with a surface area of 80 square feet (7.44 square meters) or less.

(i) *Procedure.* Such signs shall be reviewed, and a sign permit may be issued by the Director of Community Development. The sign permit shall be valid for 1 year, after which time it may be renewed by annual application and payments of the required fee to the Community Development Department.

(ii) *Area.* The allowable surface area shall be based upon 1 square foot (0.093 square meter) of sign area for each 1 foot (.031 meter) of lineal building frontage, if developed, or vacant land frontage if undeveloped, not to exceed 80 square feet (7.44 square meters).

(iii) *Length.* The length of such sign shall not exceed 70% of the length of any building wall on which the sign is located.

(iv) *Number of Signs.* The number of signs permitted shall be based upon the total acreage (hectares) of the site.

Number of Acres (Hectares)	Number of Signs Permitted
Fifty or less (20.24)	1
Between 50 - 100 (20.24 - 40.49)	2
Greater than 100 (40.49)	3

(v) *Location.* Not more than 1 sign shall be permitted on each street frontage of the property being advertised.

(vi) *Existing Special Use Permit.* No sign(s) provided for in this section of the code shall be permitted if the property has a special use permit in effect for an existing sign having a surface area in excess of 80 square feet (7.44 square meters).

(b) *Greater Than Eighty Square Feet.* Signs with a surface area greater than 80 square feet (7.44 square meters).

(i) *Special Use Permit.* Signs with a surface area greater than 80 square feet (7.44 square meters) may be permitted when required by unique conditions, but only after obtaining a special use permit approved by the Village Board upon recommendation of the Plan Commission. Such special use permit shall be formally reviewed annually by the Director of Community Development for compliance.

(ii) *Required Findings.* Granting of a special use permit for such signs shall be conditioned upon due consideration and findings on the following factors:

- Necessity of sign due to unique conditions of the site or market.
- Nature of surrounding land use.
- Size of property.
- Size of proposed sign.
- Traffic safety.
- Size and nature of existing/proposed development (if applicable).

(iii) *Cancellation.* If, at the required annual review or any other time, the Director of Community Development finds that the conditions related to the evaluation factors above have changed significantly, he may recommend to the Board of Trustees that the special use permit for such signs be terminated. The Board may revoke such permit without public hearings.

(iv) *Sign Permit.* Should a special use permit be granted or renewed, a sign permit may be issued by the Community Development Department upon proper application and payment of the required fee. Such fee shall be payable annually at the time of the formal review of the Director of Community Development.

(3) *Temporary Signs.* There are unique events which may warrant the temporary permission of signs not otherwise permitted. Such temporary signs shall be governed by the following regulations:

(a) *Area.* A temporary sign shall not exceed 1 square foot (0.093 square meter) of sign area for each 1 lineal foot (0.305 meter) of the length of the wall of the principal building which contains the primary entrance to the establishment, up to a maximum area of 100 square feet (9.30 square meters).

(b) *Number.* Only 1 temporary sign is permitted, unless the principal building fronts on more than 1 public street, then 1 sign may be mounted on each street frontage. However, the total area of all such signs shall not exceed 100 square feet (9.30 square meters).

(c) *Location.*

(i) *Zoning Districts.* Temporary signs are permitted only in Commercial and Industrial Zoning Districts.

(ii) *Mounted Flush.* All signs shall be mounted flush with the building wall upon which they are located, except in the case of free-standing signs designating a grand opening, which may be permitted by the Director of Community Development.

(d) *Type and Construction.*

(i) *Safe Mounting.* All signs shall be securely anchored so that they will not swing, sway in the wind, or endanger users of sidewalks or roadways.

(ii) *Cloth Signs.* All signs constructed of cloth or other weak and combustible materials shall be securely attached to their supports. They shall be removed as soon as they are torn or damaged at the discretion of the Director of Community Development.

(iii) *Free-Standing Signs.* No free-standing signs are permitted, except in the case of a "Grand Opening." These signs may be permitted only upon the specific approval of the Director of Community Development.

(iv) *Partially Unsecured Signs.* No pennants, streamers, balloons or any other partially unsecured signs are permitted except as provided herein. Pennants and/or flags may be permitted on the specific approval of the Board of Trustees subject to the following conditions:

- Pennants and/or flags shall only be permitted in conjunction with retail businesses having a permanent outdoor display area of merchandise offered for retail sale as regulated by this Code.
- The erection of pennants shall be limited to the immediate area containing the outdoor display, and shall not exceed a height of 20 feet (6.10 meters).

- Upon approval of the Board of Trustees, a permit may be issued by the Community Development Department for pennants to be erected on a zoning lot once per calendar year for a period not to exceed 6 months.
- All pennants and/or flags erected for display purposes shall be maintained in an orderly fashion. Torn and badly faded pennants and/or flags shall be immediately taken down or replaced at the discretion of the Director of Community Development.

(v) *Electrical Installations.* No temporary sign construction of combustible materials may have any electrical wiring as a part of the sign, nor shall any temporary sign be internally illuminated.

(vi) *Length.* The length of a temporary sign shall not exceed 70% of the length of any building to which it is attached.

(e) *Duration and Frequency.*

(i) *Grand Opening.* Temporary signs designating a "Grand Opening" may be erected within 6 months of obtaining an original business license. Said sign may be erected for a period not to exceed 15 calendar days.

(ii) *Other Temporary Signs.* Temporary signs may be permitted at any business location not more than 2 time periods during any calendar year. Each time period shall not exceed 10 calendar days in length.

(f) *Procedure.* The Village of Matteson reserves the right to review any proposed temporary sign for compliance and to reject any sign that is deemed unsafe or not in keeping with the intent of this code.

(i) *Grand Opening Signs.* All free-standing "Grand Opening" sign applications must be approved by the Director of Community Development. He shall take into consideration the size of the proposed sign, its proposed duration, any colors or illumination, traffic safety, public safety, the impact upon adjacent properties, and general compliance with this code.

(ii) *Civic, Charitable or Religious Signs.* Temporary signs of civic, charitable or religious nature are exempt from the provisions contained in this section, but shall require the specific approval of the Director of Community Development.

(iii) *Other Temporary Signs.* All other temporary signs shall be reviewed by the Director of Community Development for compliance.

(4) *Flags.* Flags of governmental, civic, philanthropic, educational or religious organizations displayed on private property are permitted subject to the following regulations:

(a) *Number.* There shall be a maximum of one flag pole for each zoning lot except as may otherwise be allowed by a special use permit.

(b) *Height.* The height of a flag pole above grade shall be in proportion to the scale of the building to which it relates, and in no case shall be higher than the following height limitations:

Building Height	Pole Height
1 - 2 Stories	20 feet (6.10 meters)
3 - 4 Stories	35 feet (10.68 meters)
5 - 7 Stories	50 feet (15.25 meters)

(c) *Length.* The length of a permitted flag on a flag pole shall not exceed one-third the length of the pole upon which it is hung.

(d) *Maintenance.* All flags are to be maintained in an orderly fashion. Torn and badly faded flags shall be taken down and replaced at the discretion of the Director of Community Development.

(5) *Political Signs.* Signs or posters announcing or describing candidates seeking public political office, announcing or describing political issues and data pertinent thereto are permitted subject to the following regulations:

(a) *Area.* Such signs shall contain a sign surface area not to exceed 10 square feet (3.05 meters).

(b) *Location.* Such signs or posters shall not be placed or otherwise erected upon any public right-of-way, nor attached to any building, structure or vegetation thereon, unless displayed on the interior of a window.

(c) *Duration and Frequency.* Signs or posters relating to such candidates for office or issues shall be erected not more than 60 days prior to the election at which such candidates are to be elected or issues voted upon, and shall be taken down by the person or campaign committee or organization promoted by the sign or poster not more than 5 days after the date of the election to which they relate.

(6) *Construction Signs.* Construction signs shall be permitted in all zoning districts for the purpose of denoting the construction of individual buildings or projects. All "Construction" sign applications must be approved by the Director of Community Development. He shall take into consideration the size of the proposed sign, its proposed duration, traffic safety, public safety, the impact upon adjacent properties, and general compliance with this code.

(a) *Number.* No more than 1 construction sign shall be allowed per street frontage per project.

(b) *Height.* No construction sign shall exceed 15 feet (4.58 meters) in height. Signs of a greater height may be permitted upon the specific approval of the Plan Commission.

(c) *Area.* The maximum allowable size of any construction sign located in a residential zoning district shall not exceed 100 square feet (9.30 square meters). The maximum size of any construction sign located in a commercial or industrial zoning district shall not exceed 200 square feet (18.60 square meters), except that signs with a greater area may be permitted upon the specific approval of the Plan Commission.

(d) *Location.* Such signs shall not be placed or otherwise erected upon any public right-of-way, nor attached to any building, structure or vegetation thereon. Such signs shall be situated on the same property as the construction project to which they refer.

(e) *Message.* The content of construction signs shall be limited to the project name/logo; the architect; the engineer; the general contractor; the builder or developer; the lending institution; the business of the establishment under construction; its opening date; the type of residential units being offered; and information pertaining to the price of such residential units, financing and amenities.

(f) *Duration.* No construction sign shall be erected any earlier than 60 days prior to the actual commencement of construction. Such signs shall be removed within 10 days after completion of construction and prior to occupancy.

(7) *Subdivision Monuments or Identification Signs.* Monuments or signs that identify particular residential subdivision or unified residential neighborhood may be permitted subject to the following regulations:

(a) *Location.* Such signs shall be located at points where subdivision streets intersect with arterial streets (as designated by the Comprehensive Plan).

(b) *Maintenance.* Subdivision monuments or identification signs are to be maintained in an orderly manner. Such signs are to be kept clean and in good repair. Signs not property maintained may be removed by order of the Board of Trustees.

(c) *Procedure.* The Village of Matteson reserves the right to review any proposed subdivision monuments or identification signs for compliance and to reject any sign that is deemed unsafe or not in keeping with the intent of this code. Subdivision monuments or identification signs shall require specific approval by the Board of Trustees upon recommendation of the Plan Commission. The Board shall take into consideration the size of the proposed monument or sign, any colors or illumination, traffic safety, public safety, the impact upon adjacent properties, and general compliance with this code.

(K) *Maintenance.* All signs (including those for which no permit is required) and their supports shall be kept in a safe, presentable, and good structural condition in accordance with the following requirements and with the applicable codes or ordinances of the Village of Matteson as determined by the Director of Community Development.

(1) *Clean.* The owner of any sign shall keep the sign and support structure clean and properly treated so as to prevent rust, peeling, flaking, or fading.

(2) *Good Repair.* Broken panels, missing letters, flaking or peeling paint and other damage to a sign or support structure shall be repaired within 30 days of its occurrence.

(3) *Area Around Signs.* The area surrounding all signs shall be maintained free of any debris or nui-

sance, and any related grassed area or landscaping shall be kept trimmed and in a healthy condition.

(L) *Removal of Signs.*

(1) *Public Safety.* Any sign which is an immediate peril to persons or property shall be removed summarily and without notice at the sole discretion of the Director of Community Development.

(2) *Obsolete Message.* Any sign which is located on property which becomes vacant and unoccupied for a period of 3 months or more, or any sign which pertains to a time, event, or purpose which no longer applies, shall be taken down and removed by the owner, agent, or persons having the beneficial use of the structure or property upon which such sign may be found. Permanent signs applicable to a business temporarily suspended because of a change of ownership or management may be granted an additional 3-month time extension by the Director of Community Development after written application.

Park Forest

ARTICLE XIV—SIGNS

Section 31-145. Purpose

(a) The purpose of this article is to provide a legal framework to regulate, administer and enforce outdoor sign display advertising within the Village of Park Forest. With this statement of purpose, the intent of these regulations is to:

(1) Promote clear communication by assuring the public's ability to identify uses and premises without confusion, and by avoiding visual clutter of the physical environment;

(2) Enhance the local economy by promoting the reasonable, orderly and effective display of information, appropriate to the type of activity to which it pertains;

(3) Enhance the physical plan of the Village by protecting its character and beauty; and

(4) Protect the safety and welfare of the public by regulating the type of materials, construction and maintenance of outdoor signs.

(b) Adhering to the above intent, signs of alternative sizes and standards may be considered for approval if submitted as part of an overall development proposal, or as modifications to existing developments under the PUD provisions of this Chapter. Alternative signs submitted as modifications to existing developments shall be approved by resolution of the Board in accordance with the provisions of Section 31-87(E).

(c) Adoption of this article does not affect any signs previously approved and in conformance with the standards for maintenance as set forth in Sections 8 and 16 of this Code.

Section 31-146. General Provisions

(a) *Sign.* A sign is any visual device or representation designed or used for the purpose of communicating a message or identifying or attracting attention to a premise or activity, with or without the use of words, which is visible from outside the premises on which it is located.

(b) *Sign Area.* The size of a sign or sign area shall be computed as the largest single face within a perimeter which forms the outside shape of the sign, including any frame that forms an integral part of the display. Copy shall be permitted on both sides of the sign area.

(c) *Permit Required.* No signs, except those specifically exempted from these provisions by Section 31-147, shall be erected, affixed, replaced, hung or otherwise displayed or altered, unless a permit therefor has

been issued by the Village of Park Forest, in accordance with the regulations of this article. No permit shall be required for repairing a sign.

(d) *Applications.* Each application for a sign permit shall be made in writing upon forms furnished by the Village Manager and shall contain or have attached thereto the following information:

(1) A drawing approximately to scale, showing the design of the sign, including size, character and color of letters, dimensions, method of attachment or support materials, source of illumination and showing the relationship to any building or structure to which it is proposed to be installed or affixed; and

(2) A plot plan approximately to scale indicating the location of the sign relative to property lines, easements, streets, sidewalks and other signs. For free-standing signs, landscaping at base of sign must be illustrated.

(e) *Construction and Maintenance.* Signs must be constructed of durable materials, in accordance with the provisions of Chapter 8 of this Code, and must be maintained in good condition. The Building Commissioner is hereby authorized to inspect all signs, and shall order the repair or removal of any sign not adequately maintained.

(f) *Discontinued Activity.* Any sign which advertises an activity, business, product or service which has ceased operation or production shall be removed within six (6) months of the discontinuance of said activity.

Section 31-147. Exempt Signs

A permit shall not be required for the signs covered by the provisions of this Section; such exceptions, however, shall not be construed to relieve the owner of the sign from responsibility for its erection and maintenance in a safe manner.

(a) Official government traffic, directional and informational signs and notices.

(b) Permanent signs or temporary window graphics located completely within an enclosed building provided that the maximum sign area shall not exceed twenty-five (25) percent of the window in which it is displayed; provided further that no flashing sign of any size or covering any area may be visible from outside of the premises.

(c) The flag, emblem or insignia of a nation, political unit, or civic, philanthropic, educational or religious organization.

(d) One non-illuminated "for sale" or "for rent" sign, per parcel of real estate, provided that the sign be placed on such parcel being offered for sale or rent. In residential districts, the sign area may not exceed five (5) square feet. In commercial and industrial districts, the maximum sign area may not exceed twenty (20) square feet, and advertise exclusively the sale of the land or building upon which the sign is displayed, provided:

(1) Such sign states the date on which said sign was erected;

(2) No "sold" sign may be erected unless it replaces a previously existing "for sale" sign; and

(3) "Sold" signs shall be removed upon closing of a sale.

(e) One non-illuminated nameplate for each dwelling unit in all residential districts, identifying only the name and address of the occupant and not exceeding one (1) square foot in area.

(f) For multiple-family dwellings, or a group of multiple-family dwelling structures having a common driveway entrance from a public street, one sign for each common entrance not exceeding two (2) square feet in area, identifying the addresses of dwelling units.

Section 31-148. Prohibited Signs

(a) Signs imitating warning signals are prohibited. No sign shall display lights resembling the flashing lights customarily used in traffic signals or in police, fire, ambulance, or rescue vehicles; nor shall any sign use the words, slogans, dimensional shape and size, or colors of governmental traffic signs.

(b) No commercial signs are permitted within any street right-of-way.

(c) Flashing signs are prohibited in all zoning districts, whether located within or without a building, if plainly visible from the outside.

(d) Signs which move mechanically, whether by animation, revolution, movement up or down, or movement sideways, are prohibited in all zoning districts.

(e) Commercial signs located in the interior of a parked vehicle are prohibited.

Section 31-149. Permitted Signs—Residential District

(a) The following described signs shall be permitted in a residential district, subject to the approval and limitations as herein specified:

(1) *Residential Development Identification Signs.* Signs designating the name of the residential development, the location and telephone number of the management or leasing office; provided that such signs shall be no larger than ten (10) square feet in area, and shall be no higher than six (6) feet as measured from the adjacent curb. The number and location of residential development signs shall be approved by the Village Manager.

(2) *Temporary Construction or Architect's Signs.* One non-illuminated sign on the site of construction in progress for no longer than ten (10) days after an occupancy permit has been issued for such new construction; provided that such sign

shall not exceed twelve (12) square feet in area and six (6) feet in height.

(3) *Religious Institutions Bulletin Boards.* One sign per site of a religious institution not exceeding twenty (20) square feet in area and six (6) feet in height; provided however that in the event such religious institution is located on a corner lot with public entrances from both streets, one such sign shall be permitted for each street frontage.

(4) *Public Building Identification Signs.* One primary building sign per public building as described in Section 31-150, for PC-1 Districts, and one free-standing identification sign not to exceed fifty (50) feet square feet in area, or six (6) feet in height, as measured from the adjacent curb.

(5) *Service Organization Signs.* All service organization signs only if attached to structures to be provided by the Village at appropriate locations.

(6) *Special Events or Temporary Announcement Signs.* Temporary signs which announce special events of a community nature may be erected upon public lands or institutional or religious sites upon approval of the Board of Trustees, provided such signs be constructed of durable materials, and not exceed thirty-two (32) square feet in area nor six (6) feet in height. Cloth or banner signs may be approved.

(7) *Special Real Estate Signs.* One special real estate sign for the purpose of selling or leasing a group of lots and/or any existing or proposed building or group of buildings for an area of two or more adjacent lots; provided that such sign shall not exceed thirty-two (32) square feet in area. Approval shall be granted for no longer than one year. Signs must be removed after sale or lease of the property.

(b) *Location and Illumination.* The foregoing permitted signs shall be limited as to location and illumination as follows:

(1) *Location.* All signs permitted in residential districts shall be set back not less than five (5) feet from the property lines, except for ground signs not over ten (10) inches in height which bear street address numbers only. Residential development identification signs may be permitted in Village right-of-way; and

(2) *Illumination.* Illumination of permitted signs, other than specified in (2) above, shall be accomplished by reflected light only and all lighting devices shall be so located and shielded as to prevent glare upon the street or adjacent property.

Section 31-150. Permitted Signs—Commercial (PUD-PC-1, PC-2) and Industrial Districts (POR, M-1)

A. The following signs shall be permitted in commercial (PUD-PC-1, PC-2) and industrial districts (POR, M-1) subject to the limitations herein specified:

(1) *Business Sign—Primary.* Each occupancy per storefront shall be permitted one primary business sign for each exterior building wall enclosing such occupancy provided that the exterior wall faces a public street or the interior of a shopping center. In PC-1 districts, the sign area shall not exceed one and one-half (1½) square feet for each lineal foot of the exterior building wall relative to the occupancy. In PC-2, POR and M-1 districts, the sign area shall not exceed two (2) square feet for each lineal foot, as above. In no event shall the maximum sign area exceed two hundred (200) square feet. Display shall be in one of the following described manners:

(a) Signs shall be mounted flat against or painted on the building wall, with no sign projecting more than twelve (12) inches from the wall surface. The lowest portion of said sign shall be not less than nine (9) feet above grade elevation below. If said sign is mounted on a building wall, no portion thereof shall project above or beyond the wall perimeter, if mounted on a roof, no portion of said sign shall project above or beyond any portion thereof; or

(b) Individual letters, mounted on a canopy or marquee, provided such sign does not project more than two (2) feet above the canopy or marquee deck; the letters shall not exceed one and one-half (1½) feet in height in the PC-1 district, or two (2) feet in the PC-2 district, and the sign area shall conform to paragraph (a) above. Canopies and marquees are not permitted in industrial districts.

(2) *Business Sign—Secondary.* Each occupancy per storefront shall be permitted one secondary sign containing only the name of the occupant; provided that such secondary business signs shall not exceed an area of four (4) square feet, and display shall be in one of the following manners:

(a) Mounted flat against the building wall with no portion of the sign projecting more than six (6) inches from the wall surface; or,

(b) Suspended from a marquee or canopy (commercial districts only).

(3) *Freestanding Sign.* One freestanding sign shall be permitted per shopping center. One freestanding sign shall be permitted for an individual enterprise not part of a shopping center which occupies an entire building on a distinct, legally

described parcel of land. Additional freestanding signs for a shopping center shall be permitted only upon the approval by resolution of the Board of Trustees, which shall have received advice from the Plan Commission.

Any permitted freestanding sign shall be located only on the privately owned property to which the sign pertains, not less than five (5) feet from a front or side lot line, and shall conform to Section 31-119(g) of this Code. Exact location shall be approved by the Village Manager. All freestanding signs shall have suitable landscaping materials, in accordance with guidelines furnished by the Village, and be subject to the following limitations:

(a) In the PC-1 district, shopping center signs shall be no larger than thirty (30) square feet, nor shall the height exceed six (6) feet;

(b) In the PC-2 district, shopping center signs shall not exceed seventy (70) square feet in area, nor shall the height exceed twenty (20) feet; or

(c) An individual enterprise sign shall have an area not to exceed thirty (30) square feet, nor shall the height exceed six (6) feet, except for locations on Lincoln Highway, where the sign area may not exceed forty (40) square feet, nor shall height exceed six (6) feet.

(4) *Service Entrance Sign.* A sign not exceeding six (6) square feet in area, for purposes of identifying each service entrance of the occupancy, may be mounted flat on the service door or the adjacent wall surface.

(5) *Temporary Construction or Architect's Signs.* One non-illuminated sign on the site of construction in progress for no longer than ten (10) days after an occupancy permit has been issued for

the new construction; provided that such sign shall not exceed fifty (50) square feet in area.

(6) *Special Events or Temporary Announcement Signs.* Temporary signs which announce special events of a community nature may be erected upon approval of the Board of Trustees. Signs must be constructed of durable materials and may not exceed thirty-two (32) square feet in area nor six (6) feet in height. Cloth or banner signs may be approved.

(7) *Special Real Estate Signs.* One special real estate sign for the purpose of selling or leasing a lot or group of lots and/or any existing or proposed building or group of buildings provided that such sign shall not exceed sixty-four (64) square feet in area. Approval shall be granted for no longer than one year. Signs must be removed after sale or lease of the property.

(8) *Electronic Time and Temperature Signs.* Must follow PUD procedures.

(9) *Special Commercial Promotions.* Temporary signs, including pennants, banners and freestanding signs may be approved for a period not to exceed ten (10) days, not more than twice in a twelve month period, and not less than thirty (30) days apart for special commercial events or promotions provided that any freestanding sign shall not exceed thirty-two (32) square feet in area nor six (6) feet in height from the ground.

B. *Illumination*—Permitted signs, other than (5) above, may be illumined in one of the following manners:

(1) Silhouette lighting, where the light source is concealed from direct view;

(2) Spotlight, whereby the illumination is concentrated on the sign face in such a manner as to prevent glare on the street or adjacent properties; or

(3) Bulbs or tubes, only in commercial districts.

Country Club Hills

WHEREAS, the enactment of zoning standards are necessary for the promotion of the general welfare of the public, and

WHEREAS, these standards may impose reasonable restrictions to preserve the proper character of the residential zoning districts within the city, and

WHEREAS, the comprehensive sign standards ordinance recently enacted has been carefully designed to regulate the intrusion of commercial signage within residential zoning districts, and

WHEREAS, the regulation of real estate signs in residential zoning districts represents a legitimate and proper exercise of the city's authority to enforce reasonable zoning restrictions,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COUNTRY CLUB HILLS, ILLINOIS, as follows:

SECTION 1: Section 11 of Article 11 of Chapter 15 be and is hereby deleted and the following Section 15.11.11 substituted in lieu thereof:

15.11.11 REAL ESTATE SIGNS:

Signs that have for their purpose or intent the selling or renting of real estate located in residential zoning district, such as, but not limited to signs that contain the words "for sale", "for rent", or any similar language shall conform with the following provisions:

A. No more than one real estate sign shall be erected on any premises.

B. No real estate sign shall exceed three square feet in area and the top surface shall not exceed three feet above existing grade at the point of erection.

C. Real estate signs shall be erected parallel to the front side of any building and shall be placed no more than 3 feet from the front foundation wall.

D. Prior to erection of any real estate sign, the owner of any property within the city or his agent shall file an application in accordance with the provisions of Chapter 14 of this Code.

E. No real estate signs shall contain the words "sold", "leased", or any similar language.

F. No real estate signs shall be an illuminated sign.

SECTION 2: Paragraph A of Section 14.11.01 of the Municipal Code be and is hereby deleted and the following substituted in lieu thereof:

A. No permanent sign over 20 square feet nor any real estate sign of three square feet or less shall be erected structurally or moved until the person proposing to erect, alter, or move such sign shall have obtained a permit from the city.

SECTION 3: Section 14.11.01 be and is hereby amended by the addition of the following Paragraph C:

C. Sign permits shall be valid for a period of 180 days, except that, in the case of real estate signs, said permits shall be valid only until the property is placed under contract to be sold or leased.

SECTION 4: Paragraph A3 of Section 14.8.01 be and is hereby deleted and the following substituted in lieu thereof:

Signs	Fee Basis	Minimum Fee
Permanent (over 20 sq. ft.)	$0.10/sq. ft.	$5.00
Real Estate	$0.10/sq. ft.	$5.00

SECTION 5: The following definitions be and are hereby deleted from Section 15.2.01 of the Municipal Code:

Lending Institute	Real Estate Salesman
Panic Peddling	Real Estate Transaction
Real Estate Agent	Sales
Real Estate Broker	Steering

SECTION 6: Paragraph I of Section 15.11.08 be and is hereby amended as follows:

I. Temporary signs no larger than 5 square feet presenting information of a political nature concerning State, County, Municipal or other governmental body election, or advertising special events of charitable or public groups. Such signs may remain for fifteen (15) days and must be removed upon close of the event.

SECTION 7: Paragraph M be and is hereby added to Section 15.11.08 as follows:

M. Garage sale signs no larger than 3 square feet. Such signs may remain for 7 days on private property with permission and must be removed upon close of the event.

SECTION 8: All ordinances or parts of ordinances in conflict with the provisions hereof are hereby repealed to the extent of such conflict. Should any portion of the ordinance be found invalid for any reason, such findings shall not invalidate any remaining section or portion hereof.

University Park

WHEREAS, the Village has sought reasonably to regulate the use of all types of signs in the Village because of its desire to protect the esthetically pleasing qualities of the Village as a wooded, suburban-rural, and visually open area;

WHEREAS, on the other hand, the Village also recognizes that the reasonable display of signs may constitute a public service useful to the conduct of competitive business enterprise;

WHEREAS, the Village is aware that ordinances affecting the use of signs are subject to some degree of legal uncertainty, due to the difficulty of the legal issues involved and the differences in local histories and situations addressed by various of such ordinances; and

WHEREAS, the Village desires to apply to nonilluminated real estate signs in a residential district the same or similar standard as that applicable to political signs;

NOW THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF UNIVERSITY PARK, COOK AND WILL COUNTIES, ILLINOIS, AS FOLLOWS:

Section 1. Section 1272.07(a)(2) of the Codified Ordinances of the Village of University Park is hereby deleted in its entirety and the following is inserted in its place and stead:

> 1272.07(a)(2):
> Except for the sale of unimproved parcels of land of five acres or more, no real estate sign shall be erected, exhibited, displayed or maintained outdoors in a residential district; however, a real estate sign, including a for sale sign, may be placed in a window of a residential dwelling.

MUNICIPAL ENFORCEMENT POLICY REGARDING SOLICITATION ORDINANCES

As you know, the City of Country Club Hills has a Solicitation Ordinance, which prohibits Real Estate Solicitation in the home of Country Club Hills Residents who have previously notified the Real Estate Community (through the City) of their desire not to sell their homes and not to be solicited. Although the terms of the Ordinance are clear and unambiguous in our view, some Real Estate Agents have raised questions about the City's policy as to protections of solicitations where a home has been offered for sale by owners after it had been listed with a Real Estate Agent. To remove any doubts about that, we are providing this memorandum. Please give each of your sales associates a copy.

> The Solicitation Ordinance defines "solicitation" as follows:
>
> > "Solicit" or "solicitation" means any communication by or on behalf of a Real Estate Agent with the owner or occupant of a dwelling (i) which is intended to induce a sale, rental or listing of such dwelling, (ii) which is intended to offer or promote services in connection therewith, and (iii) which is carried out by means of any of the following:
> >
> > (a) in-person contacts at the dwelling;
> >
> > (b) written material mailed or delivered directly to the dwelling such as direct mail, leaflets or pamphlets; and
> >
> > (c) telephonic contacts with the owner or occupant of the dwelling.

City of Country Club Hills Codified Ordinance Ch. 19.5.01(a).

It is the City's view that *any* business or promotional communication by Real Estate Agent to a Homeowner in his or her home is intended directly or indirectly, to generate business, *i.e.*, to solicit a sale or listing, and therefore is a "solicitation" under the Ordinance. As you

will note, the Ordinance does not distinguish between solicitations intended to generate immediate sale or listing and those intended to solicit a sale or listing at some future time (such as "farming" solicitations). The Ordinance's definition does not require that the word "solicit" be used in the communication or that the communication directly ask the homeowner to sell or list his home. In reality, virtually any communication (however bold or subtle) from a Real Estate Agent to a Homeowner is in pursuit of a sale or listing sooner or later. Therefore, the terms "solicit" or "solicitation" in the Ordinance include any business or promotional communication by a Real Estate Agent to a Homeowner in his or her home which is not carried out by media of general circulation, and the City will treat such a communication to a resident on the list as a violation of the Ordinance.

The City will not pursue an enforcement action against Real Estate Agents, however, who solicit Homeowners who are on the list, but who have listed their homes for sale with a Real Estate Agent or Broker, or have administered their availability for sale by owner. In such cases, the homeowner does wish to sell his home, contrary to the wishes he or she expressed when signing up on the list. We are requesting that Homeowners on the list inform the City of such changes in their wishes, and we will delete their names from the list upon receipt of that notice. We will inform realtors of these deletions in accordance with our usual procedure. Such homeowners will have to send in another non-solicitation card to be put back on the list.
